

ATTORNEY DOCKET NO. AT9-93-110

Art Unit: **UNKNOWN**

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If the Board affirms a rejection of claim 1, claim 2 was objected to prior to appeal as being allowable except for its dependency from claim 1 and independent claim 3 is allowed, the examiner should cancel claims 1 and 2 and issue the application ... with claim 3 only.

Accordingly, in the present case, following the Decision on Appeal Applicant was not required to provide any reply to prosecute the present Application and was expecting to receive a Notice of Allowance on Claims 6-9.

Instead, Applicant received a Notice of Abandonment dated November 30, 2001, which stated that the present Application was abandoned in view of "[t]he decision by the Board of Patent Appeals and Interferences rendered on May 19, 2001 and because the period for seeking court review of the decision has expired and there are no allowed claims" (emphasis supplied). Given the error in both date and status, Applicant took no action in response to the Notice of Abandonment when received. However, Applicant had no intention to abandon the present application.

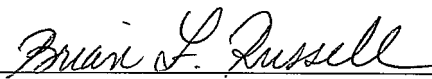
In March 2007, the inventor Timothy Michael Skergan queried IBM Patent Counsel Casimer K. Salys regarding the status of the present Application. In response to the inventor's query, Mr. Salys discovered that the present Applicant had become abandoned through a failure of the Examiner to follow the clear procedure set forth in the MPEP for handling applications having allowable claims following a decision on appeal. Mr. Salys thereafter immediately requested the undersigned to undertake revival of the present Application.

In preparing to the accompanying Petition to Revive, I have carefully reviewed the file wrapper of the present Application and find no notation or other evidence that Applicant ever intended to abandon the present Application. Applicant's consistent, clear intention in pursuing prosecution and Appeal of the present Application was to have a patent issue on allowable Claims 6-9. Consequently, as set forth in the accompanying Petition to Revive, the entire delay from the abandonment of the Applicant until the filing of the accompanying Petition to Revive was unintentional.

In support of the accompanying Petition to Revive, Applicant submits herewith a terminal disclaimer under 37 C.F.R. § 1.137, the fee for the terminal disclaimer, and authorization to charge the issue fee to Applicant's deposit account. As indicated in MPEP 1214.06, no further reply is required by Applicant.

Please charge any additional fees associated with the present Petition to Revive as well as any other fee necessary to further the prosecution of this Application to IBM Corporation **Deposit Account 09-0447**.

Respectfully submitted,



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